

EXHIBIT 42

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IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

24 HOUR FITNESS WORLDWIDE, INC.,

Plaintiff, Chapter 11

Case No.:

v. 20-11558 (KBO)

CONTINENTAL CASUALTY COMPANY;

ENDURANCE AMERICAN SPECIALTY

INSURANCE COMPANY; STARR Adv. Proc. No

SURPLUS LINES INSURANCE COMPANY; 20-51051 (KBO)

ALLIANZ GLOBAL RISKS US INSURANCE

COMPANY; LIBERTY MUTUAL INSURANCE

COMPANY; BEAZLEY-LLOYDS

SYNDICATES 2623/623; ALLIED WORLD

NATIONAL ASSURANCE COMPANY;

QBE SPECIALTY INSURANCE COMPANY;

and GENERAL SECURITY INDEMNITY

COMPANY OF ARIZONA,

Defendants.

VIDEO DEPOSITION of ALLISON STOCK, Ph.D., MPH, MS

August 22, 2023

10:04 a.m. Eastern

DLA Piper

33 Arch Street, #26

Boston, Massachusetts 02110

Dana Welch, CSR, RPR, CRR, CRC

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I N D E X

WITNESS:

ALLISON STOCK, M.D.

EXAMINATION: PAGE:

BY MR. WEISS 8

EXHIBITS MARKED:

NO. DESCRIPTION PAGE:

Exhibit 1, Journal of Infection and 23

Public Health article, "Real-life lack of

evidence of viable SARS-CoV-2

transmission via inanimate surfaces: The

SURFACE study,"

Exhibit 2, "Coronavirus Assessments: The 34

Science of Transmission & Spread" webinar

Exhibit 3, J.S. Held webinar slides 36

Exhibit 4, "COVID-19: What We Know Now 58

and the Science Behind the Virus" webinar

Exhibit 5, Document Bates labeled 72

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Exhibit 6, Letter dated November 23, 2022 76

from Brett Ingerman re: 24 Hour Fitness

v. CNA, et al.

Exhibit 7, Litigation Cases Allison 85

Stock, Ph.D., MPH, MS Deposition and

1 (Pages 1 to 4)

<p style="text-align: right;">Page 5</p> <p>1 Expert Testimony</p> <p>2 Exhibit 8, Coronavirus Disease 2019 125</p> <p>3 (COVID-19) 2020 Interim Case Definition,</p> <p>4 Approved April 5, 2020</p> <p>5 Exhibit 9, New York Times article, It's 129</p> <p>6 Just Everywhere Already: How Delays in</p> <p>7 Testing Set Back the U.S. Coronavirus</p> <p>8 Response</p> <p>9 Exhibit 10, March 17, 2020 LA Times 131</p> <p>10 article</p> <p>11 Exhibit 11, "Antibodies to Severe Acute 134</p> <p>12 Respiratory Syndrome Coronavirus 2</p> <p>13 (SARS-CoV-2) In All of U.S. Research</p> <p>14 Program Participants, 2 January to 18</p> <p>15 March 2020</p> <p>16 Exhibit 12, CSTE Interim-20-ID-01 Title: 137</p> <p>17 Standardized surveillance case definition</p> <p>18 and national notification for 2019 novel</p> <p>19 coronavirus disease</p> <p>20 Exhibit 13, Chemical Engineering Journal 142</p> <p>21 article, "Make it clean, make it safe: A</p> <p>22 review on virus elimination via</p> <p>23 adsorption,"</p> <p>24 Exhibit 14, SARS-CoV-2 Disinfection and 151</p> <p>25 Potential Overuse Adverse Health Effects</p>	<p style="text-align: right;">Page 6</p> <p>1 Exhibit 15, Scientific Brief: SARS-CoV-2 154</p> <p>2 Transmission</p> <p>3 Exhibit 16, Science Brief: SARS-CoV-2 155</p> <p>4 and Surface (Fomite) Transmission for</p> <p>5 Indoor Community Environments</p> <p>6 Exhibit 17, Asymptomatic patients as a 162</p> <p>7 source of COVID-19 infections: A</p> <p>8 systematic review and meta-analysis</p> <p>9 Exhibit 18, ASHRAE Epidemic Task Force, 167</p> <p>10 Core Recommendations for Reducing</p> <p>11 Airborne Infectious Aerosol Exposure</p> <p>12 Exhibit 19, "Public Health Response to 177</p> <p>13 the Initiation and Spread of Pandemic</p> <p>14 COVID-19 in the United States, February</p> <p>15 24 - April 21, 2020</p> <p>16</p> <p>17</p> <p>18</p> <p>19 Exhibits retained by reporter and subsequently sent</p> <p>20 to Esquire Deposition Solutions via FedEx, track</p> <p>21 no.: 773115145292</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 7</p> <p>1 P R O C E E D I N G S</p> <p>2 THE VIDEOGRAPHER: Good morning,</p> <p>00:00:01 3 everyone. We are now on the record. This is</p> <p>00:00:05 4 tape one of the videotaped deposition of</p> <p>00:00:07 5 Dr. Allison Stock in the matter of the 24 Hour</p> <p>00:00:10 6 Fitness Worldwide versus Continental Casualty</p> <p>00:00:14 7 Company, et al. This is being heard before the</p> <p>00:00:18 8 United States Bankruptcy Court for the District</p> <p>00:00:22 9 of Delaware, Case Number 20-11558.</p> <p>00:00:29 10 This deposition is being held at DLA</p> <p>00:00:31 11 Piper at 33 Arch Street in Boston, Massachusetts</p> <p>00:00:35 12 on August 22nd, 2023, and the time is now</p> <p>00:00:40 13 10:04 a.m. Eastern Standard Time.</p> <p>00:00:43 14 My name is Geoffrey Bassett, and I'm the</p> <p>00:00:45 15 videographer today. The court reporter is Dana</p> <p>00:00:47 16 Welch.</p> <p>00:00:48 17 Counsel, at this time will you please</p> <p>00:00:50 18 introduce yourself and affiliations for the</p> <p>00:00:53 19 record.</p> <p>00:00:55 20 MR. WEISS: David Weiss from the Reed</p> <p>00:00:57 21 Smith law firm on behalf of plaintiff, and I have</p> <p>00:01:02 22 with me Elizabeth Bowman, also from Reed Smith</p> <p>00:01:05 23 for the plaintiff.</p> <p>00:01:07 24 MS. MANZO: Deanna Manzo, Mound Cotton</p> <p>00:01:08 25 Wollan & Greengrass, on behalf of Allied World</p>	<p style="text-align: right;">Page 8</p> <p>00:01:11 1 Assurance Company.</p> <p>2 ALLISON STOCK, M.D.</p> <p>3 having provided proper identification,</p> <p>4 was placed under oath and testified as follows:</p> <p>5 EXAMINATION</p> <p>6 BY MR. WEISS:</p> <p>00:01:25 7 Q. Good morning, Dr. Stock. What is your</p> <p>00:01:38 8 current business address?</p> <p>00:01:39 9 A. 365 Canal Street, Suite 2750, New</p> <p>00:01:48 10 Orleans, Louisiana 70130.</p> <p>00:01:53 11 Q. Do you also live in the New Orleans area?</p> <p>00:01:55 12 A. I do.</p> <p>00:01:59 13 Q. How many times have you given a</p> <p>00:02:01 14 deposition?</p> <p>00:02:03 15 A. So that's a hard question for me because</p> <p>00:02:06 16 I'm the former corporate representative, the</p> <p>00:02:08 17 30(b)(6) for the Chevron Corporation, and I was</p> <p>00:02:11 18 doing about 18 a year. As an expert probably</p> <p>00:02:14 19 40ish.</p> <p>00:02:18 20 Q. In the past 12 months, approximately how</p> <p>00:02:21 21 many expert depositions have you given?</p> <p>00:02:25 22 A. I would have to look at the history. In</p> <p>00:02:28 23 some of those, I am defunct company 30(b)(6)s</p> <p>00:02:32 24 that are listed on that testimony history, so I'd</p> <p>00:02:35 25 have to go through and figure out where I'm a</p>

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00:25:11 1 incredibly high value of deposit of virus onto
 00:25:16 2 these surfaces like steel or cardboard and this
 00:25:22 3 is what happens in a real world setting when you
 00:25:24 4 set it out on a counter.
 00:25:27 5 Q. Okay. And this particular study that's
 00:25:31 6 reflected in this article related to the variant
 00:25:39 7 of SARS-CoV-2 that was circulating in the 2022
 00:25:46 8 time period, correct?
 00:25:47 9 A. That is correct.
 00:25:50 10 Q. Okay. And so this -- and do you -- and
 00:25:53 11 in the studies that were looked at previously
 00:25:58 12 related to prior variants of the virus; is that
 00:26:03 13 right?
 00:26:03 14 A. That is correct.
 00:26:12 15 Q. And in fact, I'll read on page 739 of the
 00:26:16 16 article, under Conclusions, Strains and
 00:26:21 17 Limitations it says, "Moreover, the initial
 00:26:25 18 studies on SARS-CoV-2 contamination of inanimate
 00:26:29 19 surfaces were performed early in the course of
 00:26:33 20 the pandemic before the appearance of VOCs, and
 00:26:39 21 thus, this study, which was designed at a time in
 00:26:41 22 which omicron subvariants prevailed, represents a
 00:26:45 23 significant new addition to the field."
 00:26:47 24 Do you see that?
 00:26:48 25 A. I do.

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00:26:50 1 Q. Is VOCs, does that stand for variants of
 00:26:54 2 concern?
 00:26:55 3 A. Yes.
 00:26:58 4 Q. So at the time that 24 Hour Fitness
 00:27:03 5 closed its clubs in or around March of 2020, the
 00:27:10 6 variants that were being studied in this study
 00:27:15 7 and reflected in this article would not have been
 00:27:17 8 the same variants that were circulating then,
 00:27:21 9 correct?
 00:27:23 10 A. So in March 2020 and April 2020, there
 00:27:29 11 were two to three different strains coming from
 00:27:33 12 very distinct populations that we considered to
 00:27:36 13 be alpha, if you want to think of in terms of the
 00:27:39 14 Greek alphabet, those were sort of the earlier
 00:27:42 15 strains.
 00:27:45 16 Q. Okay. Are you aware of a study that
 00:27:49 17 looked at contamination at a department store and
 00:27:57 18 at an apartment where people were living?
 00:28:01 19 A. Yes.
 00:28:01 20 Q. Okay. Did you cite that study in your
 00:28:08 21 report?
 00:28:09 22 A. I probably didn't cite those because that
 00:28:16 23 data was unclear in those studies of what it was
 00:28:18 24 really -- on what the big issues were.
 00:28:30 25 Q. Okay. And do you recall that in that

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00:28:32 1 particular study they concluded that the virus
 00:28:41 2 could persist on surfaces for upwards of, I think
 00:28:45 3 it was, 57 days?
 00:28:47 4 A. So the problem with that study, if we're
 00:28:49 5 talking about the same one, is they did not
 00:28:51 6 culture the virus to see if it would infect
 00:28:57 7 cells, and the virus is -- has a membrane that's
 00:29:02 8 composed of fats and protein and water and it
 00:29:06 9 readily breaks down outside of a host.
 00:29:11 10 So while we might find a viral fragment
 00:29:13 11 just like on the Diamond Princess cruise ship,
 00:29:15 12 we're not finding intact virus that can make
 00:29:19 13 people sick.
 00:29:24 14 Q. So it's not the case that the virus that
 00:29:37 15 they found would not infect cells, they just
 00:29:41 16 didn't do the extra step to make that
 00:29:44 17 determination?
 00:29:46 18 A. So I think it's really important when
 00:29:47 19 we're talking about viruses and the environment,
 00:29:52 20 that viruses are ubiquitous in the environment.
 00:29:54 21 We're going to find viral fragments to
 00:29:56 22 everything. We're not all sick from those
 00:29:58 23 viruses for that reason.
 00:30:00 24 So even though we have a PCR test that
 00:30:04 25 shows that there may have been the presence of

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00:30:05 1 the virus there, it does not mean that that's
 00:30:09 2 going to get anyone ill from that virus.
 00:30:13 3 Q. So your criticism of that prior study is
 00:30:15 4 that they didn't culture the virus that they
 00:30:18 5 found, correct?
 00:30:20 6 A. All they found were viral fragments, so I
 00:30:22 7 think we need to be very clear about what was
 00:30:24 8 found and not found. And when we find fragments,
 00:30:27 9 it just tells us at some point there was someone
 00:30:30 10 who brought that in, either from them shedding it
 00:30:33 11 themselves or on their clothing or their shoes or
 00:30:35 12 whatever.
 00:30:36 13 Q. Okay.
 00:30:37 14 A. And the studies that we have after that
 00:30:39 15 don't find live virus.
 00:30:55 16 Q. The other -- some of the other articles
 00:30:57 17 that you provided yesterday involve outbreaks at
 00:31:02 18 fitness clubs; is that right?
 00:31:04 19 A. That is correct.
 00:31:05 20 Q. Is there a reason why those were
 00:31:08 21 provided?
 00:31:10 22 A. I was thinking about my -- what was the
 00:31:14 23 basis of my opinion on those, and why I didn't
 00:31:17 24 include those within the report. And that's
 00:31:23 25 information that is not necessarily tied directly

7 (Pages 25 to 28)

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00:36:38	1 in litigation?	00:37:59	1 four of us gave, and it was three to four of us,
00:36:39	2 A. Less than 50 percent, and it depends on	00:38:01	2 and I probably gave it three to four times.
00:36:41	3 the months. Some months it's 30/70, some it's	00:38:03	3 Q. Okay. During what period of time?
00:36:44	4 50/50, and some months, given to whatever the	00:38:09	4 A. We put the presentation together in April
00:36:48	5 court has going on, it can be 60/40.	00:38:13	5 of 2020 and so we probably gave it till maybe
00:36:52	6 Q. Okay. At the present time, how would you	00:38:19	6 October -- at least I stopped by October of 2020
00:36:55	7 break it down?	00:38:22	7 being involved.
00:36:56	8 A. It's less than 50 percent.	00:38:25	8 Q. Okay. And was there a reason why you
00:37:04	9 Q. And as part of your work, have you	00:38:27	9 stopped being involved?
00:37:08	10 engaged in providing seminars for insurance	00:38:28	10 A. Because I had other work outside of this
00:37:11	11 companies?	00:38:33	11 type of litigation and I needed to focus on my
00:37:13	12 A. So our corporation does, and I	00:38:36	12 other clients.
00:37:15	13 occasionally am asked to speak at those.	13	(Exhibit 2, "Coronavirus Assessments: The
00:37:18	14 Q. Have you spoken at any seminars for	14	Science of Transmission & Spread" webinar,
00:37:21	15 insurance company clients related to COVID-19?	15	marked for identification.)
00:37:26	16 A. So it wasn't -- we've provided seminars.	00:39:26	16 Q. I've had marked as Exhibit 2 a printout
00:37:31	17 It was not just solely for insurance. It was for	00:39:32	17 from the Internet regarding a webinar titled
00:37:33	18 any of our clients to come to that. So some of	00:39:40	18 "Coronavirus Assessments, the Science of
00:37:36	19 my private clients came to theirs, but we had	00:39:42	19 Transmission and Spread," with a date of
00:37:39	20 early on a seminar that was set up with a couple	00:39:46	20 April 23rd, 2020. And it was -- it indicates
00:37:41	21 of people giving information on COVID.	00:39:53	21 that it was given to the Pennsylvania Association
00:37:46	22 Q. Approximately how many seminars have you	00:39:56	22 of Mutual Insurance Companies.
00:37:49	23 participated in as a speaker that provided	00:39:59	23 And do you have this in front of you?
00:37:53	24 information regarding COVID?	00:40:00	24 A. I do.
00:37:56	25 A. There was one kind of canned talk that	00:40:02	25 Q. Do you recall participating in a webinar
Page 35		Page 36	
00:40:05	1 for the Pennsylvania Association of Mutual	00:41:25	1 clean a facility because of COVID.
00:40:08	2 Insurance Companies in April of 2020?	2	(Exhibit 3, J.S. Held webinar slides,
00:40:11	3 A. So what I can tell you about is they	3	marked for identification.)
00:40:13	4 weren't the only group that was invited to this	00:42:05	4 Q. Do you recognize Exhibit 3?
00:40:15	5 webinar. So we had multiple different groups	00:42:07	5 A. I do.
00:40:18	6 that had asked for information on COVID. So each	00:42:07	6 Q. Okay. Can you describe generally what it
00:40:22	7 one had their own way into it, but we all gave it	00:42:11	7 is?
00:40:25	8 at one time.	00:42:11	8 A. Well, these are the slides from the
00:40:26	9 Q. Okay. So were they -- was the -- I'll	00:42:13	9 webinar that were not supposed to have been
00:40:32	10 call it PAMIC, were they a sponsor for this	00:42:14	10 distributed, but yes, these are the slides from
00:40:36	11 webinar?	00:42:17	11 the webinar.
00:40:37	12 A. No. We don't -- well, I guess they could	00:42:18	12 Q. Okay. And why were these not supposed to
00:40:38	13 be a sponsor because they asked us to do it, but	00:42:22	13 be distributed?
00:40:41	14 there was no payment or any of that type of	00:42:23	14 A. Because at least the information that I
00:40:44	15 thing.	00:42:26	15 was giving to my clients at the time, I wanted to
00:40:45	16 Q. Okay. And do you recall generally what	00:42:34	16 make sure that we were giving the most accurate
00:40:49	17 you talked about during this seminar?	00:42:37	17 information. And because information on COVID
00:40:51	18 A. Yes.	00:42:39	18 was rapidly changing, we were putting out -- this
00:40:53	19 So the seminar was given by Tracey Dodd,	00:42:44	19 kept getting updated.
00:40:57	20 who did the beginning piece on insurance stuff.	00:42:47	20 Q. Okay. Do you believe that the slides
00:41:03	21 I talked about what we knew about transmission.	00:42:51	21 conveyed accurate information at least as of the
00:41:09	22 Sara Raley and Eloy talked about preparing your	00:42:54	22 date that they were presented?
00:41:15	23 building for shutdown and what it would cost for	00:42:57	23 MS. MANZO: Objection to form.
00:41:20	24 cleaning and those kinds of things and how to do	00:42:59	24 A. As much as we can at that time.
00:41:22	25 an invoice review if you brought someone in to	00:43:05	25 Q. Did you participate in preparing the

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00:49:41 1 way' in multiple regions."

00:49:44 2 Are you comfortable with that definition?

00:49:48 3 A. Well, it's not just for viruses at CDC,

00:49:51 4 it's for anything, any disease or any process.

00:49:54 5 And as I pointed out when I gave the slide, it

00:49:56 6 can mean that your left middle toe is blue, and

00:50:01 7 so long as that's going across multiple countries

00:50:04 8 and multiple locations and it spreads in an

00:50:06 9 efficient manner, it would be deemed a pandemic.

00:50:11 10 Q. Okay. But it also applies to viruses?

00:50:14 11 A. It applies to any infectious disease.

00:50:18 12 Q. Then in the next slide, "COVID-19, Who do

00:50:21 13 we rely on?"

00:50:22 14 What were you trying to convey there?

00:50:25 15 A. There is at the beginning of the pandemic

00:50:30 16 an incredible amount of misinformation and we

00:50:33 17 still see misinformation on a daily basis. And

00:50:38 18 so one of the things that I am very passionate

00:50:43 19 about as a public health practitioner is that you

00:50:46 20 have to go to reliable sources. Don't go to the

00:50:49 21 New York Times, don't go to Fox News, go to the

00:50:51 22 sources themselves and see what they are actually

00:50:55 23 saying about the disease.

00:50:57 24 So in this case of the pandemic, it was

00:50:59 25 the World Health Organization, it was the U.S.

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00:51:03 1 Centers for Disease Control and Prevention, CDC,

00:51:07 2 the EPA. EPA had great lines on cleaning. FDA

00:51:13 3 had great information on the drugs that were

00:51:16 4 available, so don't go take the malaria drug or

00:51:19 5 inject bleach. If you think you have COVID, go

00:51:22 6 to see what the FDA is saying to do.

00:51:24 7 And then most federal and state -- or

00:51:28 8 most federal, state, and community regulatory

00:51:32 9 governments such as the county or a parish or a

00:51:34 10 big city also had great information that they

00:51:37 11 were putting out.

00:51:39 12 Q. And OSHA, what about them?

00:51:42 13 A. OSHA had a lot of information, and

00:51:46 14 actually on their website, especially by job

00:51:49 15 title, they had risk matrices of what was

00:51:51 16 considered a high risk, a medium risk or low risk

00:51:53 17 job. And it ease really important to remember

00:51:56 18 that OSHA early on declared COVID-19 as a

00:51:59 19 reportable and recordable disease.

00:52:02 20 Q. Okay. And then when you say in red "Be

00:52:06 21 careful who you rely on," is that basically the

00:52:09 22 point you just made?

00:52:11 23 A. Don't go to Fox News, don't go to the New

00:52:12 24 York Times, go to the sources.

00:52:36 25 Q. There's a slide on the next page,

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00:52:40 1 "COVID-19, What are the issues our clients are

00:52:42 2 dealing with?"

00:52:43 3 Do you see that?

00:52:44 4 A. Yes.

00:52:44 5 Which one?

00:52:45 6 Q. The second one.

00:52:46 7 A. Okay.

00:52:49 8 Q. There's something referenced as the

00:52:51 9 "J.S. Held 360 virtual inspection tool to allow

00:52:55 10 to best review while safely away from the site."

00:52:59 11 Do you see that?

00:53:00 12 A. Yes.

00:53:00 13 Q. Are you familiar with what that is?

00:53:03 14 A. I am.

00:53:03 15 Q. What is that?

00:53:07 16 A. It's something our building consultants

00:53:09 17 use all the time. I used it during writing

00:53:16 18 reopening plans so that we had a captured video

00:53:20 19 of those rooms and people knew where things were

00:53:23 20 exactly supposed to go outside of just a drawing.

00:53:27 21 It's basically a 360 camera, and if you sync your

00:53:34 22 iPad with it remotely, you can see the whole

00:53:37 23 space.

00:53:38 24 And we had -- many of our clients and

00:53:44 25 many of our staff are people that were considered

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00:53:47 1 high risk for COVID.

00:53:48 2 Q. And so how would using that virtual tool

00:53:53 3 keep people safe?

00:53:55 4 A. Well, we had individuals that were obese,

00:54:00 5 had underlying -- other underlying health

00:54:02 6 conditions, and refused to wear respiratory

00:54:05 7 protection, and so, because I also sit on our

00:54:09 8 corporate safety committee, we would say you have

00:54:12 9 to use the tool unless you're going to wear the

00:54:14 10 respirator when you go into the field. We're not

00:54:16 11 taking on the liability of you becoming an

00:54:18 12 occupationally-related illness case.

00:54:21 13 Q. And would the people -- so somebody would

00:54:24 14 have to physically go into the location with the

00:54:26 15 camera, and would that person be also wearing a

00:54:30 16 respirator?

00:54:31 17 A. Well, they would be wearing a mask of

00:54:34 18 some sort of face covering. And some of them,

00:54:37 19 depending on where they went, it was required

00:54:39 20 that they wear a respirator because we did a lot

00:54:41 21 of work for hospitals. And those requirements

00:54:45 22 were different than let's say going into a

00:54:48 23 university.

00:54:57 24 Q. Under the next slide, the third slide on

00:55:00 25 the page, "COVID-19, What are the issues our

11 (Pages 41 to 44)

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01:06:25 1 A. So we wanted everyone to know that there
 01:06:28 2 were going to be new technologies coming out that
 01:06:31 3 you can either get through your doctor's office
 01:06:33 4 or even the home kits. By April of that year,
 01:06:37 5 there was the a -- there's a rapid analyzer that
 01:06:42 6 your healthcare provider can do, and so that test
 01:06:49 7 was starting to be approved so that you could go
 01:06:52 8 to any hospital lab and they could run the test
 01:06:56 9 very quickly versus having to wait for a PCR
 01:07:00 10 test.
 01:07:01 11 Q. And prior to April when that test that
 01:07:04 12 you just described was approved, how would
 01:07:07 13 somebody be able to confirm whether they had
 01:07:11 14 COVID?
 01:07:13 15 A. PCR testing.
 01:07:14 16 Q. And what is PCR testing?
 01:07:17 17 A. Polymerized chain reaction testing. It's
 01:07:19 18 sort of the gold standard for COVID. The problem
 01:07:21 19 with it is it doesn't measure intact virus. It
 01:07:24 20 only measures a fragment of the viral RNA. And
 01:07:30 21 for people when we do it, we take a nasal swab,
 01:07:33 22 the hospital lab has the ability to do this. And
 01:07:39 23 it's the sort of gold standard of measurement
 01:07:43 24 because it's able to kind of estimate the number
 01:07:46 25 of virions or pieces, like intact virus that you

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01:07:50 1 have in your body.
 01:07:54 2 Q. Was there a time period when the
 01:08:00 3 government required that any COVID testing be
 01:08:04 4 done at a CDC laboratory?
 01:08:08 5 A. So in the very early days of January,
 01:08:12 6 that was the case. After that it was being
 01:08:16 7 rolled out to health departments, and the health
 01:08:19 8 departments then rolled it to healthcare
 01:08:22 9 providers.
 01:08:22 10 Q. Okay.
 01:08:23 11 A. So by March, healthcare providers had the
 01:08:26 12 ability to do the test.
 01:08:30 13 Q. Do you remember by when in March they
 01:08:32 14 were able to do that?
 01:08:34 15 A. From my remembering of this, it depended
 01:08:37 16 on the state health department and what their
 01:08:38 17 laboratory capabilities were and how they could
 01:08:40 18 roll it out.
 01:08:51 19 Q. And up until then it had to go to the
 01:08:56 20 CDC?
 01:08:58 21 A. No. Because they -- so I think there's a
 01:09:01 22 misconnect -- understanding of what CDC and how
 01:09:05 23 CDC does this type of rollout of a test. In
 01:09:13 24 January -- actually, in December when CD
 01:09:18 25 recognized that there was this issue going on,

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01:09:20 1 they very quickly pulled together a team of
 01:09:23 2 experts from the CDC and state health
 01:09:26 3 departments, they created a method, they rolled
 01:09:28 4 that method out to state health departments.
 01:09:33 5 However, in those first cases in January
 01:09:36 6 of 2020, CDC was doing confirmation, so the state
 01:09:41 7 health department was running the test and so had
 01:09:43 8 an answer. CDC was also running the test and
 01:09:46 9 they were doing comparison of the tests. It's
 01:09:48 10 very common, called "a round-robin."
 01:09:51 11 But by March almost every place was able
 01:09:54 12 to do the test without having to have CDC
 01:09:57 13 confirmation.
 01:09:58 14 Q. Was there a period of time when the
 01:10:02 15 people who could get tested was limited, for
 01:10:05 16 example, to people who had traveled to China or
 01:10:09 17 people who had come into contact with people who
 01:10:12 18 went to China, that sort of thing?
 01:10:15 19 A. That was in January and February, and it
 01:10:19 20 was done through the quarantine officers at the
 01:10:23 21 different airport locations.
 01:10:26 22 Q. So in January and February of 2020,
 01:10:32 23 people could not get tested unless they fit
 01:10:35 24 within those criteria?
 01:10:40 25 A. So in January and February, there was a

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01:10:46 1 push by the state health departments to get it
 01:10:51 2 rolled out at the state level, and the
 01:10:55 3 round-robin was still going on, and they were
 01:10:57 4 being selective of who they tested because early
 01:11:01 5 transmission in the U.S. was very travel related
 01:11:05 6 and not just from China, but did I travel to a
 01:11:10 7 location where there was somebody who had been
 01:11:12 8 from China at that location, or Italy. China was
 01:11:16 9 not the only location. But had I come in contact
 01:11:19 10 with someone who had been in one of these hot
 01:11:23 11 beds outside the U.S. of COVID, or was I working
 01:11:26 12 in a healthcare setting or some other ones like
 01:11:30 13 that.
 01:11:30 14 Q. And that's why the testing criteria was
 01:11:33 15 limited?
 01:11:34 16 A. The testing criteria wasn't limited. The
 01:11:38 17 ability of having those institutions ready and
 01:11:43 18 having it confirm was more limited. But on top
 01:11:48 19 of that, there needed to be time for the primer
 01:11:50 20 to be made for the test.
 01:11:52 21 So CDC was and all these other
 01:11:54 22 institutions were actively trying to make enough
 01:11:56 23 primer so that by when we started seeing more
 01:11:59 24 cases, they could go -- they could do the test.
 01:12:02 25 MS. MANZO: Do you think it's a good

14 (Pages 53 to 56)

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01:17:38 1 the virus, and how expert testimony can help your
 01:17:43 2 COVID-19 claim."
 01:17:45 3 Do you see that?
 01:17:47 4 A. I do.
 01:17:47 5 Q. Did you provide any information on that
 01:17:50 6 last point, "How expert testimony can help your
 01:17:53 7 COVID-19 claim?"
 01:17:55 8 A. No. That was Alycen's realm, not mine.
 01:18:00 9 Q. Did you have a PowerPoint presentation
 01:18:03 10 that you used for this webinar?
 01:18:06 11 A. It's the same one we've just looked at in
 01:18:07 12 Exhibit 3.
 01:18:09 13 Q. Was it updated at all?
 01:18:11 14 A. It was updated on the slides I gave and
 01:18:13 15 then Alycen added her own slides.
 01:18:15 16 Q. Okay. Do you still have a copy of that
 01:18:19 17 in your files?
 01:18:22 18 A. I don't think so, but I can double-check.
 01:18:29 19 Q. On the second page of the exhibit,
 01:18:34 20 there's a number of bullet points, and one of
 01:18:37 21 them is "The differences between cleaning and
 01:18:41 22 decontamination?"
 01:18:42 23 A. Yes.
 01:18:43 24 Q. Was that a topic that you covered at the
 01:18:46 25 webinar?

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01:18:47 1 A. Yes.
 01:18:48 2 Q. And what -- in general, what did you
 01:18:52 3 discuss in that topic?
 01:18:58 4 A. So people forget that if a surface is
 01:19:01 5 really dirty, you can't effectively decontaminate
 01:19:08 6 or remove, say, hepatitis-A is the easiest one,
 01:19:13 7 actually, Norovirus is the best one, let's go
 01:19:15 8 with that. If you -- if you come back and just
 01:19:20 9 wipe something for Norovirus without having the
 01:19:23 10 appropriate cleaner that would break down
 01:19:27 11 Norovirus, it's not going to do anything. And if
 01:19:29 12 it's surface that's really dirty, like a daycare
 01:19:32 13 table where kids have been doing an activity,
 01:19:35 14 you're going to have to come back and clean
 01:19:37 15 first, so remove the debris, and then come back
 01:19:40 16 with the appropriate cleaner to decontaminate or
 01:19:43 17 remove or break down the virus that may still be
 01:19:46 18 there.
 01:19:47 19 Q. Would the same recommendation apply to a
 01:19:52 20 coronavirus like SARS-CoV-2?
 01:19:55 21 A. So it was part of CDC's recommendations
 01:19:57 22 that if a surface was dirty, clean it first and
 01:20:00 23 then do the disinfecting step next.
 01:21:12 24 Q. When do you recall first being contacted
 01:21:17 25 by the insurers or their counsel in this case to

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01:21:21 1 provide services?
 01:21:23 2 A. Based on the job number, it would have
 01:21:27 3 been mid portion of 2022.
 01:21:34 4 Q. Do you recall what month you were
 01:21:38 5 contacted in?
 01:21:40 6 A. I can't remember.
 01:21:43 7 Q. The engagement letter that you've
 01:21:46 8 provided, I think is dated in October of 2022,
 01:21:50 9 would it have been around that time?
 01:21:53 10 A. Yes. It may have been -- I may have
 01:21:55 11 gotten a phone call around September and then we
 01:21:57 12 moved forward.
 01:22:00 13 Q. Do you recall who first contacted you on
 01:22:03 14 behalf of the insurance companies?
 01:22:05 15 A. Mr. Ingerman.
 01:22:08 16 Q. Had you worked with Mr. Ingerman before
 01:22:11 17 on any case?
 01:22:12 18 A. Yes.
 01:22:14 19 Q. Was that a COVID case?
 01:22:16 20 A. Yes.
 01:22:17 21 Q. Which case was that?
 01:22:20 22 A. I have a confidentiality agreement, so
 01:22:22 23 I'm not able to share too much about it, but it
 01:22:24 24 was a case related to an orthodontist office.
 01:22:28 25 Q. Is that a case that's in litigation?

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01:22:32 1 A. It is.
 01:22:34 2 Q. Is the litigation still going on?
 01:22:38 3 A. I have no idea.
 01:22:40 4 Q. Did you provide a report?
 01:22:43 5 A. I did.
 01:22:44 6 Q. Did you -- do you recall when you
 01:22:46 7 provided the report?
 01:22:50 8 A. It was -- I can't remember.
 01:22:53 9 Q. Do you recall what year?
 01:22:56 10 A. I'm struggling with that. I can't
 01:22:57 11 remember if it was the fall of 2020 or if it was
 01:22:59 12 the spring of -- or if it was during 2021, I'm
 01:23:03 13 not sure.
 01:23:05 14 Q. Do you know what court the case is
 01:23:08 15 pending in?
 01:23:09 16 A. I don't have that information.
 01:23:11 17 Q. Did you give a deposition?
 01:23:12 18 A. No, sir.
 01:23:17 19 Q. Do you know the status of the case?
 01:23:19 20 A. No, sir.
 01:23:21 21 Q. Other than that case, had you worked with
 01:23:23 22 Mr. Ingerman before?
 01:23:25 23 A. I have one other case with him, and I'm
 01:23:27 24 not sure of the timing.
 01:23:29 25 Q. Is that also a COVID case?

16 (Pages 61 to 64)

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02:14:23 1 test, were recommendations made for them to stay
 02:14:27 2 at home or to isolate or to take other
 02:14:29 3 precautions?
 02:14:31 4 A. So the thing that we've always said,
 02:14:34 5 because you also have to remember that it was a
 02:14:36 6 bad flu year in 2020 and March is still flu
 02:14:40 7 season, we also had RSV that was out and we had
 02:14:44 8 COVID. So in the early days, if -- my policy has
 02:14:49 9 always been to tell my clients if somebody is
 02:14:51 10 sick, they need to stay home. I don't care if
 02:14:53 11 it's COVID or not, they shouldn't be there
 02:14:55 12 hacking on somebody else and getting them
 02:14:57 13 potentially sick with RSV or something that's
 02:15:00 14 just as bad.
 02:15:16 15 Q. With regard to these investigations that
 02:15:19 16 you conducted during the pandemic, did you
 02:15:23 17 actually go on site to your clients, or were they
 02:15:29 18 remote?
 02:15:32 19 A. For a lot of my clients it was on site.
 02:15:34 20 I was an anxious traveler, and so -- and I have a
 02:15:39 21 child with an underlying heart condition, so.
 02:15:41 22 Q. I'm sorry.
 02:15:42 23 A. That's okay, but thank you. She's 17,
 02:15:44 24 she's great, and plays sports and all that other
 02:15:47 25 good stuff.

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02:15:47 1 But she was at higher risk. So I was
 02:15:49 2 very careful about where I went. And if could do
 02:15:52 3 things as much remotely as I could using that
 02:15:55 4 J.S. Held 360 camera, I did. But if I
 02:15:59 5 couldn't -- but if it wasn't going to work, I
 02:16:01 6 went on site.
 02:16:01 7 Q. When you went on site, did you wear any
 02:16:04 8 protective PPE?
 02:16:07 9 A. I wore a KN-95, and I've testified in
 02:16:10 10 court even wearing a KN-95 because of my child.
 02:16:36 11 Q. Okay. When you went on -- when you
 02:16:39 12 conducted on-site investigations, either you
 02:16:43 13 personally or with your -- with staff, did you do
 02:16:47 14 any testing of surfaces or air within facilities
 02:16:52 15 as part of this work?
 02:16:54 16 A. We used the luminometer early on, and
 02:16:57 17 some of these facilities, especially our food
 02:16:59 18 manufacturing facilities, because even though we
 02:17:03 19 kept saying that COVID is not transmitted by
 02:17:05 20 food, there was still concern on the part of the
 02:17:09 21 client, so we did do the luminometer there and
 02:17:14 22 recommend to them to use that.
 02:17:18 23 Q. Was there any air testing that you could
 02:17:20 24 have done at that time to test the air to see if
 02:17:23 25 there were -- there was virus in the air?

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02:17:27 1 A. We didn't recommend it. It wasn't going
 02:17:29 2 to add that much to the pieces of information we
 02:17:33 3 needed.
 02:17:34 4 Q. Why not?
 02:17:37 5 A. So we knew fairly early on, and if you
 02:17:40 6 want to look into the literature, by November of
 02:17:42 7 2020 but even prior to that, there was
 02:17:45 8 indications that this virus just isn't stable
 02:17:49 9 outside of the body for a really long -- its host
 02:17:52 10 for a long period of time.
 02:17:56 11 Now, I have to qualify that by saying
 02:17:58 12 that it has to be based on viral load and all of
 02:18:02 13 those kinds of pieces that go with it, but we
 02:18:05 14 knew that it didn't like sunlight. We knew that
 02:18:09 15 it didn't like changes in temperature. And we
 02:18:11 16 knew that it didn't like changes in humidity.
 02:18:14 17 So our recommendation to our clients was
 02:18:18 18 to because of that increase their air flow,
 02:18:22 19 follow ASHRAE standards, and if you're able to,
 02:18:29 20 make sure that you can just social distance or
 02:18:34 21 physically distance the people that are in your
 02:18:36 22 facility.
 02:18:39 23 Q. And the recommendation for distancing
 02:18:42 24 people was because of the -- what you referred to
 02:18:45 25 as the primary route of transmission would be

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02:18:48 1 through droplets?
 02:18:49 2 A. It's a larger, heavily droplet -- larger,
 02:18:51 3 heavy droplets.
 02:18:52 4 Q. Okay.
 02:18:57 5 MR. WEISS: Why don't we go off the
 02:18:58 6 record for a second.
 02:19:00 7 THE VIDEOGRAPHER: The time is now 12:31.
 02:19:03 8 Off the record.
 02:19:03 9 (Proceedings interrupted at 12:31 p.m. and
 02:19:03 10 reconvened at 1:27 p.m.)
 02:19:05 11 THE VIDEOGRAPHER: The time is now 1:27
 02:19:10 12 and we are on the record.
 02:19:10 13 BY MR. WEISS:
 02:19:11 14 Q. Dr. Stock, before the break we were
 02:19:13 15 looking at your report, which is Exhibit 6.
 02:19:22 16 First off, are you aware of any opinions
 02:19:27 17 that you plan to testify to at trial that are not
 02:19:31 18 set out in your report?
 02:19:36 19 A. The only thing that I might testify to is
 02:19:38 20 if there is new information or if there's
 02:19:41 21 something very specific, there's a new question
 02:19:43 22 that's posed to me between now and then. So
 02:19:47 23 there's like the Samnertino article, which has
 02:19:50 24 come out when this report was written.
 02:20:05 25 Q. And that's the article we looked at

26 (Pages 101 to 104)

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02:31:34 1 somebody who's COVID positive does not mean that
 02:31:36 2 I am at risk of getting COVID. So I want to know
 02:31:40 3 where they were, who they interacted with, how
 02:31:43 4 long they were there, and what areas within that
 02:31:49 5 facility did they go to.
 02:32:00 6 Q. And do you know if any of the insurance
 02:32:02 7 companies advised 24 Hour Fitness that that was
 02:32:05 8 the type of information they needed to collect?
 02:32:10 9 A. I have no idea about those conversations.
 02:32:15 10 Q. All right. And when you say "24 Hour has
 02:32:25 11 not presented the data necessary to validate
 02:32:27 12 whether there were true cases (confirmed) of
 02:32:33 13 COVID-19 on 24 Hour properties," what do you mean
 02:32:38 14 there by a true or confirmed case?
 02:32:41 15 A. So confirmed case, if you use the
 02:32:44 16 definition that's been set up by CSTE and CDC,
 02:32:48 17 tells you that you have to have the positive test
 02:32:52 18 and they want you to have the symptoms, or you
 02:32:56 19 have to have the gold standard, which is PCR.
 02:33:09 20 Q. So when you say a positive test plus
 02:33:11 21 symptoms, what type of test are you talking about
 02:33:14 22 there?
 02:33:16 23 A. So I'm talking about that you want to
 02:33:17 24 have the positive PCR test to make sure that you
 02:33:27 25 have truly someone who is COVID positive. You

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02:33:33 1 have to remember that the symptomatology of COVID
 02:33:36 2 is not specific to COVID.
 02:33:37 3 Q. And can you elaborate and explain that?
 02:33:48 4 A. Pardon?
 02:33:48 5 Q. Can you explain what you mean by "the
 02:33:49 6 symptomatology of COVID is not specific to
 02:33:54 7 COVID"?
 02:33:55 8 A. Lots of viral illnesses cause cough.
 02:33:58 9 Lots of viral illnesses cause fever. Lots of
 02:34:01 10 viral illnesses cause other symptoms that people
 02:34:05 11 think about with COVID, malaise, headache, sore
 02:34:09 12 throat. All those can be attributed to other
 02:34:11 13 viruses.
 02:34:12 14 The other thing is one of the hallmarks
 02:34:16 15 that was originally proposed earlier on was this
 02:34:20 16 loss of taste or smell. However, what we are
 02:34:23 17 learning is that it's not always accurate because
 02:34:26 18 if you have let's say an acute case of sinusitis,
 02:34:29 19 you're also going to have a loss of taste or
 02:34:31 20 smell.
 02:34:32 21 So there are other things other than
 02:34:34 22 saying, hey, Bob called in and he's sick to
 02:34:38 23 indicate that it was COVID or not. You really
 02:34:40 24 need that test to confirm that it is truly COVID.
 02:34:51 25 Q. So during the period of January to mid

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02:34:55 1 March of 2020, if Bob called in to 24 Hour
 02:34:58 2 Fitness and said he was sick, how would 24 Hour
 02:35:03 3 Fitness go about determining if they could get a
 02:35:07 4 PCR test result from Bob?
 02:35:11 5 A. Bob, did you go to doctor? Did you get a
 02:35:13 6 test? What did the test tell you?
 02:35:15 7 Q. Okay. And during that time could Bob go
 02:35:20 8 to the doctor and easily get a PCR test?
 02:35:25 9 A. In the first part of March it was a lot
 02:35:26 10 easier to do it than let's say January because we
 02:35:28 11 didn't have any cases here in the U.S. really
 02:35:31 12 until the first part to mid part of January.
 02:35:33 13 Q. And in February?
 02:35:36 14 A. We were starting to see more
 02:35:37 15 travel-related cases depending on what location
 02:35:40 16 and the country you were in. So it was still a
 02:35:44 17 little more difficult, but by around the
 02:35:45 18 beginning of March we were starting to make sure
 02:35:47 19 that health departments and local providers had
 02:35:50 20 that ability to conduct those tests.
 02:36:16 21 Q. So in your opinion, in order for 24 Hour
 02:36:23 22 Fitness to have demonstrated that there were true
 02:36:27 23 cases of COVID-19 at its properties, it would
 02:36:30 24 need to show a positive PCR test result from
 02:36:36 25 somebody who was on their property?

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02:36:41 1 A. And it would have to have the right
 02:36:42 2 timing for COVID, and you'd want to make sure
 02:36:46 3 that they really were there and if you could
 02:36:49 4 check your log records and see. And say, you
 02:36:54 5 know, Bob, did you have -- did your doctor do a
 02:36:57 6 COVID test? Yes. What was the result? Those
 02:37:00 7 early days, especially in March, they were almost
 02:37:02 8 all going to be PCR tests except for a few
 02:37:05 9 antibody tests that remained then.
 02:37:08 10 Q. And where were the antibody tests being
 02:37:11 11 done?
 02:37:12 12 A. So there were pop-up laboratories across
 02:37:14 13 the United States that were experimenting with
 02:37:18 14 different tests. They weren't necessarily valid.
 02:37:22 15 That's why CSTE says we need that gold standard,
 02:37:25 16 which is the PCR.
 02:37:27 17 Q. So in your view, would a antibody test
 02:37:31 18 that was positive constitute a confirmed case of
 02:37:34 19 COVID?
 02:37:36 20 A. No. Because the other issue with the
 02:37:37 21 antibody test is we don't know, especially if the
 02:37:40 22 person had had travel history to China, it could
 02:37:43 23 be that it's a reaction from the previous SARS.
 02:38:02 24 Q. And then in -- back into that paragraph
 02:38:05 25 8, you talk about -- well, you say, "None of the

29 (Pages 113 to 116)

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02:38:17 1 call records or other documents or testimony
 02:38:19 2 available provide evidence that any individual
 02:38:23 3 displayed signs or symptoms of COVID-19 at a 24
 02:38:26 4 Hour facility," right?
 02:38:28 5 A. That's correct.
 02:38:29 6 Q. Okay. But even if there was information
 02:38:33 7 like that, in your opinion, that would not be
 02:38:35 8 sufficient because those symptoms could have been
 02:38:38 9 from other illnesses, correct?
 02:38:41 10 A. That is correct. And we don't have
 02:38:43 11 confirmation that it was COVID.
 02:38:44 12 Q. Right.
 02:38:45 13 And then you wrote, "The March 2020 call
 02:38:50 14 records provided by Jeremy Gottlieb, subsequent
 02:38:54 15 e-mails from Dan Larson, and other information
 02:38:56 16 submitted by 24 HOUR do not include sufficient
 02:38:59 17 evidence to indicate that individuals with
 02:39:01 18 COVID-19 infections were at 24 HOUR facilities."
 02:39:06 19 And that's because they don't include PCR
 02:39:10 20 test results, correct?
 02:39:12 21 MS. MANZO: Objection to form.
 02:39:14 22 A. It's not only that. It's more than just
 02:39:16 23 that PCR test results that aren't there. There's
 02:39:19 24 not the chain of events that you'd want to know.
 02:39:23 25 Just because Bob had COVID on Monday and he was

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02:39:27 1 at the facility on Friday doesn't mean that we
 02:39:29 2 need to close the facility or do anything because
 02:39:35 3 on Friday Bob probably wasn't contagious.
 02:39:40 4 Q. So not only do you need the PCR test but
 02:39:42 5 you also need more information about Bob's
 02:39:46 6 illness and his whereabouts and those sorts of
 02:39:48 7 things, correct?
 02:39:49 8 A. Correct. And Dr. Carnethon refers to
 02:39:51 9 this as temporality, which is part of the
 02:39:53 10 Bradford Hill criteria. However, this is not a
 02:39:57 11 causation case, so I didn't use -- I used
 02:40:01 12 elements of Bradford Hill, but I don't use the
 02:40:02 13 whole thing like she did. But that temporality
 02:40:05 14 is really important because if you were in the
 02:40:07 15 facility two weeks ago and then tests positive,
 02:40:09 16 it doesn't matter.
 02:40:14 17 Q. And then when you say "Such data would
 02:40:16 18 have been available for any actual COVID-19 cases
 02:40:19 19 because other businesses collected it at the
 02:40:22 20 time," when you say actual COVID cases, you mean
 02:40:26 21 cases where there was a positive PCR test?
 02:40:31 22 A. Yes. What other businesses were doing at
 02:40:34 23 this time were setting up sort of this triage
 02:40:37 24 phone system to go through and asking questions,
 02:40:42 25 hey, Bob called in, he's sick. Okay. Did you

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02:40:44 1 ask him did he get tested? If he got tested,
 02:40:46 2 where did he get it tested? Was it a home kit?
 02:40:48 3 There wasn't really home at this point. But did
 02:40:50 4 he get it as his doctor's office? Where did he
 02:40:52 5 go? When did he get the results versus when he
 02:40:55 6 called us?
 02:41:02 7 Q. Okay. And you understand that some of
 02:41:03 8 the people that were either calling 24 Hour or
 02:41:08 9 had told them that -- otherwise that they had
 02:41:11 10 symptoms of illness were customers of 24 Hour
 02:41:14 11 Fitness, right?
 02:41:16 12 A. They had both customers and employees
 02:41:18 13 calling in.
 02:41:19 14 Q. And setting aside employees for a second,
 02:41:23 15 do you agree that there would be no way for 24
 02:41:25 16 Hour Fitness to mandate a customer to go get
 02:41:29 17 tested?
 02:41:30 18 MS. MANZO: Objection to form.
 02:41:32 19 A. What 24 Hour can say is, did you have a
 02:41:35 20 test?
 02:41:36 21 Q. Right.
 02:41:39 22 A. And where did you have that test done?
 02:41:46 23 Q. And the customer could say none of your
 02:41:48 24 business, right?
 02:41:52 25 A. I would say it depends on the

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02:41:54 1 jurisdiction, because I will tell you having
 02:41:57 2 worked with our city health department in New
 02:41:59 3 Orleans, that would not have flown.
 02:42:06 4 Q. But you don't know about other cities,
 02:42:09 5 correct?
 02:42:10 6 A. I knew some about what other cities were
 02:42:11 7 doing because I am an active member of CST.
 02:42:13 8 Q. Okay. Did you do any work to look at the
 02:42:17 9 cities where 24 Hour Fitness operated to see what
 02:42:21 10 the rules were about whether people had to
 02:42:25 11 divulge their COVID status if requested by a
 02:42:29 12 business?
 02:42:32 13 A. I did not look for rules.
 02:43:07 14 Q. With respect to your opinion about what
 02:43:17 15 other businesses were doing in terms of
 02:43:18 16 collecting information and doing contact tracing,
 02:43:22 17 are you able to identify by name which businesses
 02:43:27 18 you're talking about?
 02:43:30 19 A. So I can tell you the government
 02:43:32 20 recommendations were places like restaurants had
 02:43:35 21 to have -- collect that information because
 02:43:38 22 people were coming in and sitting down without
 02:43:40 23 face coverings or -- and not necessarily always
 02:43:44 24 spaced depending on the location, but most of the
 02:43:48 25 states were requiring that.

30 (Pages 117 to 120)

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02:57:12 1 Q. In the spring of 2020 -- well, between
 02:57:17 2 January through March of 2020, it was pretty rare
 02:57:22 3 for people with no symptoms to be tested for
 02:57:25 4 COVID, wasn't it?
 02:57:29 5 A. If you were doing a field investigation,
 02:57:31 6 you would maybe do that. But for the general
 02:57:33 7 population, it would require normally
 02:57:35 8 symptomatology to go to the doctor.
 9 (Exhibit 9, New York Times article, It's
 10 Just Everywhere Already: How Delays in
 11 Testing Set Back the U.S. Coronavirus
 12 Response, marked for identification.)
 02:58:29 13 Q. All right. So I marked as Exhibit 9 a
 02:58:37 14 printout of a New York Times article from
 02:58:39 15 March 10, 2020, and I know you talked earlier
 02:58:42 16 about the New York Times, but I wanted to get
 02:58:47 17 your view on something here. The article is
 02:58:49 18 called "It's Just Everywhere Already: How Delays
 02:58:54 19 in Testing Set Back the U.S. Coronavirus
 02:58:57 20 Response."
 02:58:59 21 And on the first page, the fourth
 02:59:04 22 paragraph from the bottom, it says, "Even now,
 02:59:08 23 after weeks of mounting frustration toward
 02:59:11 24 federal agencies over flawed test kits and
 02:59:14 25 burdensome rules, states with growing cases, such

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02:59:18 1 as New York and California, are struggling to
 02:59:21 2 test widely for the coronavirus. The continued
 02:59:24 3 delays have made it impossible for officials to
 02:59:26 4 get a true picture of the scale of the growing
 02:59:29 5 outbreak which has now spread to at least 36
 02:59:32 6 states and Washington, D.C."
 02:59:37 7 Do you agree with the author here that
 02:59:42 8 there were problems during this time period
 02:59:45 9 regarding the ability to test widely for
 02:59:47 10 COVID-19?
 02:59:51 11 MS. MANZO: Objection to form.
 02:59:55 12 A. What I can say is that as one of the
 03:00:05 13 criticisms that former epidemic intelligence
 03:00:08 14 officers have had with CDC during this time frame
 03:00:13 15 is that for some reason it became very political
 03:00:17 16 and it became very difficult to work with the CDC
 03:00:24 17 if you were a state health department.
 03:00:30 18 The issue of testing is really dependent
 03:00:34 19 on the location of the country you were in.
 03:00:37 20 There are parts of the country that had no
 03:00:40 21 problems with getting tests and it was very easy
 03:00:43 22 to get a test. There were some locations within
 03:00:45 23 the United States that it was more difficult to
 03:00:47 24 get a test due to the number of cases that were
 03:00:51 25 being seen, but also by sort of the rules that

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03:00:58 1 were associated with the test that you had to
 03:01:00 2 have these symptoms in order to have the test
 03:01:04 3 done.
 03:01:04 4 Q. Okay. Do you agree with the author that
 03:01:07 5 New York and California were areas where it was
 03:01:11 6 difficult to do a widespread testing for COVID?
 03:01:19 7 A. So I disagree with that some, but I have
 03:01:21 8 insider knowledge. I worked very closely with
 03:01:24 9 Los Angeles County on their testing and how they
 03:01:27 10 set up their testing screens. So I disagree with
 03:01:32 11 some of this, and also, there's no specificity.
 03:01:36 12 I'm assuming they're meaning New York City
 03:01:37 13 because I know people in other cities within New
 03:01:40 14 York state that were able to get tested and had
 03:01:43 15 no problems.
 03:01:46 16 Q. And are you able to talk about the inside
 03:01:48 17 knowledge that you're referring to with respect
 03:01:50 18 to Los Angeles?
 03:01:51 19 A. Well, I work for the county, and I've
 03:01:53 20 evaluated their testing program several times
 03:01:55 21 since the beginning of the pandemic and that's
 03:01:58 22 about all I can share.
 03:02:02 23 Q. Okay. So let's look at the next one.
 24 (Exhibit 10, March 17, 2020 LA Times
 25 article, marked for identification.)

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03:02:36 1 Q. So Exhibit 10 is a Los Angeles Times
 03:02:40 2 article from March 17th, 2020, and it's titled
 03:02:47 3 "Newsletter: How You Can Slow Coronavirus'
 03:02:50 4 Spread."
 03:02:51 5 But I wanted to focus on -- let's see --
 03:03:05 6 on page 2 of 9 at the bottom. There's a
 03:03:13 7 question, "Will testing finally ramp up?" And it
 03:03:17 8 says, "The lack of widespread testing early on in
 03:03:20 9 the U.S. has made it nearly impossible to track
 03:03:24 10 the coronavirus and ultimately forced the closure
 03:03:27 11 of schools and businesses in many cities
 03:03:29 12 nationwide. As of Monday the U.S. had tested
 03:03:33 13 roughly 40,000 people for the virus while South
 03:03:37 14 Korea, a country six times smaller, had tested
 03:03:40 15 more than 260,000."
 03:03:42 16 Do you see that?
 03:03:43 17 A. I do.
 03:03:54 18 Q. Do you believe that those statistics are
 03:03:57 19 generally accurate, that comparing how many
 03:04:01 20 people the U.S. had tested versus how many people
 03:04:05 21 had been tested in South Korea?
 03:04:09 22 A. I'm not sure this is accurate, so I can't
 03:04:12 23 comment on a newspaper article such as this.
 03:04:19 24 Q. Okay. Do you agree that the lack of
 03:04:22 25 widespread testing was a reason for the closure

33 (Pages 129 to 132)

Page 133			Page 134		
03:04:27	1	of schools and businesses in many cities?	03:05:56	1	resources could catch up and we didn't have
03:04:31	2	A. No. And I will also say that CDC's	03:05:57	2	people on ventilators in hallways and we were
03:04:33	3	retrospective analysis did not find that lack of	03:06:01	3	able to provide them what they needed.
03:04:36	4	testing was the big issue.	03:06:04	4	What I will also tell you is that we know
03:04:40	5	Q. Okay. But at the time that the schools	03:06:09	5	based on how the spread of the virus happened in
03:04:42	6	and businesses were closed, do you agree that one	03:06:13	6	the United States that locations that had travel
03:04:46	7	of the reasons was that because there wasn't	03:06:19	7	in and out of those locations and large
03:04:49	8	enough testing to determine who had COVID?	03:06:21	8	gatherings were some of the bigger drivers of
03:04:54	9	MS. MANZO: Objection to form.	03:06:25	9	these cases and spikes in cases.
03:04:56	10	A. No. And I think that's a fallacy if		10	(Exhibit 11, "Antibodies to Severe Acute
03:04:58	11	that's the assumption being made in terms of how		11	Respiratory Syndrome Coronavirus 2
03:05:00	12	epidemiologists would -- would -- would view	03:06:27	12	(SARS-CoV-2) In All of U.S. Research Program
03:05:03	13	this?	03:07:10	13	Participants, 2 January to 18 March 2020,"
03:05:06	14	Q. Okay. Why so?	03:07:24	14	marked for identification.)
03:05:11	15	A. Well, as an epidemiologist, the closure	03:07:25	15	Q. Exhibit 11 is an article titled
03:05:20	16	wasn't because we didn't know if Bob or Mary or	03:07:30	16	"Antibodies to Severe Acute Respiratory Syndrome
03:05:23	17	Sue had COVID. The closure was done to help	03:07:33	17	Coronavirus 2 (SARS-CoV-2) In All of U.S.
03:05:27	18	prevent the spread of the virus throughout the	03:07:38	18	Research Program Participants, 2 January to 18
03:05:31	19	United States so that our health care resources	03:07:42	19	March 2020."
03:05:34	20	could catch up to what was needed.	03:07:45	20	This is an article that was cited by you
03:05:38	21	And by closing and doing the stay at home	03:07:48	21	in your report, correct?
03:05:42	22	or safer at home or whatever the location is that	03:07:50	22	A. It's actually an article that was cited
03:05:45	23	you're living in called those orders, those	03:07:52	23	by Dr. Carnethon, and I responded to the article
03:05:49	24	orders went into effect at the recommendation of	03:07:54	24	in my report.
03:05:53	25	federal agencies so that our health care	03:07:58	25	Q. Okay. And would you consider this
Page 135			Page 136		
03:08:01	1	article to be a scientific article?	03:09:24	1	participants were really people with symptoms.
03:08:04	2	A. It's a journal article. There are some	03:09:27	2	Seven of them were really zero positive prior to
03:08:06	3	issues with it, and I'm happy discuss those as we	03:09:35	3	all of this. And we know that they were
03:08:10	4	proceed.	03:09:38	4	associated with travel.
03:08:12	5	Q. In the beginning, in the Background	03:09:41	5	So using this to say that it was spread
03:08:13	6	section it says, "With limited severe acute	03:09:43	6	through all across the United States was wrong.
03:08:19	7	respiratory syndrome, coronavirus (SARS-CoV-2)	03:09:46	7	We know that it was hitting large major
03:08:22	8	testing capacity in the United States at the	03:09:49	8	metropolitan areas where there was increased
03:08:25	9	start of the epidemic, January to March 2020,	03:09:52	9	travel in and out of those locations, and it's
03:08:30	10	testing was focused on symptomatic patients with	03:09:55	10	not necessarily travel related to China or to
03:08:32	11	a travel history throughout February obscuring	03:09:58	11	Italy or those locations. It was where people
03:08:36	12	the picture of SARS-CoV-2 seeding and community	03:10:01	12	are coming from one location where there was SARS
03:08:39	13	transmission."	03:10:04	13	covariant to circulating among the population and
03:08:40	14	Do you see that?	03:10:08	14	you had confirmed COVID-19 places into locations
03:08:44	15	A. I do.	03:10:14	15	where it didn't.
03:08:44	16	Q. Do you disagree with that statement?	03:10:15	16	And if you look at the pattern of what
03:08:45	17	A. Yes.	03:10:18	17	SARS covariant-2 did, in certain parts of the
03:08:48	18	Q. And why do you disagree with that?	03:10:21	18	country it took a while to get there. So the
03:08:50	19	A. Because this obscuring the picture of	03:10:25	19	assumption that's made in this paper, I think
03:08:53	20	SARS covariant-2 seeding and community	03:10:30	20	it's great research, I think the assumptions are
03:08:55	21	transmission piece of that sentence I disagree	03:10:33	21	wrong. And that's okay as a scientist for me to
03:08:58	22	with. And the more you go into the study you	03:10:36	22	say I don't agree with somebody else's research,
03:09:01	23	realize that out of the 24,000 -- what is it? --	03:10:38	23	that happens all the time.
03:09:07	24	it's 24,500-ish -- about 24,079 study	03:10:41	24	Q. Do you agree with the first part of what
03:09:20	25	participants, only two of those study	03:10:45	25	I read, that about limited testing capacity in

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03:10:52 1 the U.S. at the start of the epidemic and that

03:10:55 2 testing was focused on symptomatic patients with

03:10:57 3 a travel history throughout February?

03:11:04 4 A. What I will say is that parts of this

03:11:10 5 were correct, that we limited our testing,

03:11:13 6 especially through February, to people who had

03:11:16 7 symptoms, which made the most sense when you have

03:11:21 8 a limited number of primers that are available

03:11:24 9 while you're making more to limit it to people

03:11:27 10 who are sick.

03:11:30 11 Q. And do you also agree that it was limited

03:11:33 12 to patients with a travel history?

03:11:39 13 A. I can't answer because I only know what

03:11:42 14 my state did, and I know what other states did.

03:11:47 15 And some states limited it to travel history,

03:11:49 16 others did not, because they looked at if people

03:11:53 17 had been to mass gatherings and that was another

03:11:55 18 part of this that's not mentioned in this

03:11:57 19 article.

20 (Exhibit 12, CSTE Interim-20-ID-01 Title:

21 Standardized surveillance case definition and

22 national notification for 2019 novel

23 coronavirus disease, marked for

24 identification.)

03:12:43 25 Q. Do you recognize Exhibit 12?

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03:13:01 1 A. I do.

03:13:01 2 Q. Okay. What is that?

03:13:03 3 A. This is the CSTE case definition document

03:13:07 4 from April of 2020 that was adopted by CDC. This

03:13:15 5 actually was worked on and created a little

03:13:20 6 earlier than that.

03:13:24 7 Q. So if you turn to page 6 at the bottom

03:13:35 8 under Revision History --

03:13:37 9 A. Yes.

03:13:37 10 Q. -- it says, "This is the first

03:13:39 11 standardized surveillance position statement for

03:13:42 12 COVID-19 and SARS-CoV-2 infection."

03:13:45 13 Do you see that?

03:13:46 14 A. That is correct.

03:13:47 15 Q. And what do you understand that to mean?

03:13:49 16 A. So this is the official position

03:13:53 17 statement that was released in April of 2020, at

03:14:00 18 the very first part of April, on COVID-19 cases,

03:14:11 19 which is the disease caused by SARS covariant-2,

03:14:15 20 and I think it's important on this one to know

03:14:19 21 that there was a working definition prior to

03:14:21 22 that -- prior to this because we had cases as

03:14:24 23 early as February and January.

03:14:27 24 This is the finalized case -- interim

03:14:29 25 case definition because they're going to continue

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03:14:32 1 to update this over time once we know more about

03:14:35 2 the virus.

03:14:45 3 Q. And is this the document that sets out

03:14:49 4 the criteria for a case of COVID-19 as you

03:14:53 5 discussed in paragraph 29 of your report that we

03:14:57 6 looked at before?

03:14:58 7 A. It's one of the documents, and then CSTE

03:15:01 8 or CDC had MMWRs where they were publishing

03:15:04 9 preliminary case definitions that CSTE was coming

03:15:09 10 up with.

03:15:09 11 Q. When were those MMWRs published?

03:15:11 12 A. They were being published as early as

03:15:13 13 January after our first travel-related cases.

03:15:16 14 Q. Were those published on the CDC website?

03:15:18 15 A. They can be, yes, and end up -- it's a

03:15:21 16 Morbidity and Mortality Weekly Report. We

03:15:24 17 were -- there were testing of people that were

03:15:30 18 related to travel exposures that were going on.

03:15:35 19 There was -- CSTE was working on their case

03:15:40 20 definition with CDC, and there was a preliminary

03:15:43 21 case definition that was used in those reports

03:15:46 22 because I couldn't capture a case if I didn't

03:15:48 23 know what it was.

03:15:49 24 Q. Okay. Do you know if those preliminary

03:15:51 25 case definitions were published by CDC on its

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03:15:55 1 website?

03:15:55 2 A. They would have been within Morbidity and

03:15:58 3 Mortality Weekly Report, the MMWRs, and the MMWRs

03:16:02 4 are published to the website.

03:16:07 5 Q. So do you agree that in order to have

03:16:10 6 found them, you would have had to know what you

03:16:12 7 were looking for?

03:16:13 8 MS. MANZO: Objection to form.

03:16:15 9 A. You would have to have somebody who knew

03:16:17 10 what they were doing to find those.

03:16:56 11 Q. Do you agree that in March 2020 and

03:17:02 12 before there were more people in the U.S. with

03:17:05 13 COVID-19 than there were people who had confirmed

03:17:10 14 positive cases of COVID-19 pursuant to the CSTE

03:17:15 15 case definition?

03:17:20 16 A. What I can say is not we had more than

03:17:26 17 likely circulating in certain populations in a

03:17:30 18 very localized manner cases of COVID-19 and those

03:17:36 19 would have been locations such as Seattle, Los

03:17:40 20 Angeles and New York City.

03:17:42 21 Biogenetically what came into New York

03:17:44 22 City was different than what was coming

03:17:46 23 biogenetic -- coming in on the West Coast. So we

03:17:50 24 know that we had two different populations with

03:17:54 25 two different strains, so to speak, of COVID that

35 (Pages 137 to 140)

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03:17:57 1 were coming in.

03:17:58 2 Would there have been potentially more

03:18:00 3 cases during that time that were travel related

03:18:02 4 that didn't get caught even though we had

03:18:05 5 quarantine officers at those locations, there's

03:18:07 6 always that risk. That outside of those

03:18:10 7 locations it was not circulating rapidly in

03:18:14 8 places like Austin or Dallas unless there was

03:18:20 9 travel back and forth.

03:18:27 10 Q. I mean, you would agree generally that

03:18:28 11 not everybody in the U.S. who had COVID-19 during

03:18:34 12 March 2020 and before actually got a COVID-19

03:18:37 13 test, correct?

03:18:42 14 A. We know that there may have been an

03:18:45 15 undercounting of the number of cases that were

03:18:48 16 circulating in the population because of the

03:18:52 17 criteria that was used to test people and it was

03:18:57 18 that travel-related criteria. We probably missed

03:19:00 19 household transmission, and in fact, that's one

03:19:02 20 of the retrospective things that CDC has come

03:19:05 21 back and said, hey, we missed some household

03:19:07 22 transmission cases here. And we know that there

03:19:14 23 were probably some underrepresentation of cases,

03:19:17 24 as I said, in these large areas. We know we're

03:19:20 25 having an influx of cases related to travel.

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03:19:30 1 Q. Let's go back to your report, which we

03:19:35 2 marked as Exhibit 6. And if we could take a look

03:20:02 3 at paragraph 12.

03:20:08 4 A. Paragraph 12. Sorry.

03:20:26 5 Q. In the first sentence of paragraph 12 you

03:20:31 6 write, "There are an estimated 1 times 10 to the

03:20:35 7 31 viruses in the world," correct?

03:20:39 8 A. That's correct.

03:20:40 9 Q. And what point were you trying to convey

03:20:43 10 by including that information?

03:20:47 11 A. What I'm trying to include in this is

03:20:51 12 that the universe of viruses is quite large. We

03:20:56 13 know that they're ubiquitous in the environments

03:20:59 14 where people are, and we know that there are --

03:21:04 15 they're circulating at an endemic level, which

03:21:08 16 means it's low-level throughout those

03:21:11 17 populations, and it's important that we recognize

03:21:14 18 that.

03:21:14 19 (Exhibit 13, Chemical Engineering Journal

03:21:14 20 article, "Make it clean, make it safe: A

03:21:14 21 review on virus elimination via adsorption,"

03:21:14 22 marked for identification.)

03:22:29 23 Q. So Exhibit 13 is an article from Chemical

03:22:33 24 Engineering Journal from 2021 called "Make it

03:22:39 25 clean, make it safe: A review on virus

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03:22:42 1 elimination via adsorption."

03:22:44 2 And I'll represent that this was an

03:22:46 3 article that was cited by Dr. Sauer-Budge in her

03:22:51 4 report.

03:22:52 5 Have you seen this article before?

03:22:56 6 A. I saw it in 2021, and I have not reviewed

03:22:58 7 it since then, and so I probably need 15 to

03:23:01 8 20 minutes to review this.

03:23:02 9 Q. Okay. All right. Let me see if I can

03:23:07 10 short circuit something. Well, in the

03:23:18 11 introduction it says, "Viruses are ubiquitous in

03:23:23 12 nature and consequently their interactions with

03:23:26 13 superior organisms and human beings are

03:23:28 14 constant."

03:23:30 15 That's basically what you just testified

03:23:32 16 to, correct?

03:23:33 17 A. That they're everywhere.

03:23:34 18 Q. Okay. And so you would expect there to

03:23:38 19 be virus in this room right now, wouldn't you?

03:23:43 20 A. I would expect that, and I think we want

03:23:45 21 to be really careful when we talk about viruses,

03:23:48 22 whether we're talking about intact virus or we're

03:23:50 23 talking about viral fragments. I would expect in

03:23:53 24 this room to find all sorts of viral fragments

03:23:57 25 because we've all been -- we went out to lunch,

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03:23:59 1 we came back in, we were in places where we may

03:24:02 2 have had exposure to people who had other

03:24:05 3 viruses. It sticks on our clothing. It comes in

03:24:09 4 as a viral fragment.

03:24:11 5 So I think we want to be clear about

03:24:12 6 intact virus versus viral fragments, and we're

03:24:15 7 going to find viral fragments everywhere because

03:24:17 8 viruses on a whole are ubiquitous.

03:24:27 9 Q. Okay. And would you think that you would

03:24:28 10 more likely find intact virus in this room of one

03:24:33 11 type or another?

03:24:37 12 A. So I'm not going to ask personal

03:24:40 13 questions of people, but, you know, if we were

03:24:42 14 talking about something like hepatitis B, if

03:24:46 15 somebody is hepatitis B positive and they're

03:24:48 16 shedding the virus, it's going to stick around on

03:24:51 17 surfaces a lot longer than something like HIV.

03:24:54 18 And that's why in the early days before we could

03:25:00 19 really test for HIV, we were actually testing for

03:25:02 20 Hep B and using it as a surrogate marker because

03:25:05 21 people at the time were typically coinfecting.

03:25:09 22 Now we have a marker for HIV, but we

03:25:12 23 still know that it's -- that hepatitis B sticks

03:25:14 24 around for a lot longer. Hepatitis A is one that

03:25:18 25 we know is everywhere and it sticks around and

36 (Pages 141 to 144)

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03:37:59 1 Q. All right.

03:37:59 2 A. But they stamped it as 2022.

03:38:03 3 Q. And in the fall of 2021, when it was

03:38:07 4 published, did you believe that the information

03:38:10 5 in here was accurate?

03:38:14 6 A. Yes. And you can see even if you go to

03:38:16 7 Disinfectants For SARS Covariant-2 paragraph, you

03:38:20 8 can see when we wrote it versus when it actually

03:38:22 9 got stamped with a date, because this was as of

03:38:25 10 June 2nd, 2021.

03:38:27 11 Q. Okay. And as of that time, you believed

03:38:31 12 that the information in here was accurate?

03:38:33 13 A. It was based on what we knew at the time,

03:38:40 14 and we knew that -- and this was sort of

03:38:48 15 information that we knew. This was also based

03:38:50 16 sort of on what CDC was putting out in that 2021

03:38:54 17 time frame.

03:38:57 18 Q. Okay. Have you considered whether there

03:39:02 19 should be any update to this?

03:39:11 20 A. I mean, here's the thing, CDC -- and I

03:39:17 21 agree as an epidemiologist on one of the points

03:39:20 22 that CDC is making and they made this even in

03:39:23 23 April of 2021, if I immediately sneeze or cough

03:39:27 24 on a surface and immediately someone touches

03:39:30 25 their hand to it and then touches their eyes,

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03:39:32 1 mouth or nose, are they more likely to probably

03:39:35 2 get the virus that way? We don't know. But it's

03:39:37 3 more likely to happen than come back 15 minutes

03:39:40 4 later and do it.

03:39:42 5 So the information in here is still very

03:39:46 6 valid, and we know that this issue of good

03:39:55 7 hygiene prevented some really bad flu seasons,

03:39:57 8 too, so we're going to encourage people to

03:39:59 9 continue to do that.

03:40:01 10 What the purpose of this paper was really

03:40:03 11 to talk about one thing that's been overlooked in

03:40:10 12 this, is the toxicity of the cleaners that we're

03:40:12 13 using to clean for the virus or disinfect from

03:40:14 14 the virus and what they have on the population of

03:40:16 15 people who are using them.

03:40:16 16 (Exhibit 15, Scientific Brief: SARS-CoV-2

03:40:16 17 Transmission, marked for identification.)

03:41:30 18 Q. Do you recognize Exhibit 15, which is

03:41:36 19 published by the CDC titled "Scientific Brief:

03:41:40 20 SARS-CoV-2 Transmission," updated May 7th, 2021?

03:41:45 21 And I believe this is in your report at footnote

03:41:49 22 38.

03:41:50 23 A. It is. And the companion to this one,

03:41:52 24 just for clarification, is you really need to

03:41:55 25 look at the April 2021, one specific on fomite

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03:41:59 1 and this one and put them together because this

03:42:02 2 one keeps referring back to that one.

03:42:05 3 Q. All right. Why don't we look at that

03:42:21 4 one, too.

03:42:21 5 (Exhibit 16, Science Brief: SARS-CoV-2

03:42:24 6 and Surface (Fomite) Transmission for Indoor

03:42:27 7 Community Environments, marked for

03:42:30 8 identification.)

03:42:30 9 Q. And so Exhibit 16 is from the CDC, also

03:42:35 10 titled "Science Brief: SARS-CoV-2 and Surface

03:42:39 11 (Fomite) Transmission for Indoor Community

03:42:41 12 Environments," updated April 5th, 2021.

03:42:45 13 Is that the one that you just referenced?

03:42:47 14 A. Yes. And they have not updated it since

03:42:49 15 then because this is still pretty much the same

03:42:52 16 current science as what we have now. And if you

03:42:56 17 look at the May one, you have to go back to this

03:42:58 18 one because they refer back to it a couple of

03:43:00 19 times.

03:43:00 20 Q. All right. And so if you look at

03:43:18 21 Exhibit 15, this is from the May 2021 document,

03:43:27 22 there's a section in the middle of the page,

03:43:30 23 "Transmission of SARS-CoV-2 From Inhalation of

03:43:33 24 Virus in the Air Farther Than 6 Feet From an

03:43:36 25 Infectious Source Can Occur."

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03:43:38 1 Do you see that?

03:43:39 2 A. I do.

03:43:42 3 Q. Okay. And at the bottom of that

03:43:47 4 paragraph, the first full paragraph there it

03:43:49 5 says, "Per published reports, factors that

03:43:52 6 increase the risk of SARS-CoV-2 infection under

03:43:55 7 these circumstances include: (1) enclosed spaces

03:44:00 8 with inadequate ventilation or air handling,"

03:44:04 9 next, "Increased exhalation of respiratory fluids

03:44:10 10 if the infectious person is engaged in physical

03:44:14 11 exertion or raises their voice, e.g., exercising,

03:44:18 12 shouting and singing," and the next one is

03:44:22 13 "Prolonged exposure to these conditions,

03:44:24 14 typically more than 15 minutes."

03:44:26 15 Do you see all of that?

03:44:28 16 A. I do.

03:44:31 17 Q. And as you just stated, that this has not

03:44:33 18 been updated by the CDC since May of 2021?

03:44:38 19 A. No. Because we're finding the same

03:44:40 20 information. I mean, the risk of fomite

03:44:42 21 transmission is about 1 in 10,000, which is in

03:44:44 22 the April guidance. We knew that there's a

03:44:50 23 couple of different studies that went into this

03:44:54 24 transmission of SARS covariant-2 from inhalation

03:44:56 25 of virus in the air farther than 6 feet from an

39 (Pages 153 to 156)

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03:44:59 1 infectious source can occur.

03:45:01 2 I've already just talked about physical

03:45:03 3 exertion with that heavier breathing, singing.

03:45:07 4 We have one where in another case in Asia where

03:45:11 5 people were shouting at each other with no

03:45:13 6 ventilation in the room and they found that SARS

03:45:17 7 was forced that way.

03:45:18 8 But I think when we think -- and that

03:45:21 9 prolonged exposure information is coming from the

03:45:27 10 studies that were done and then prison guards and

03:45:30 11 prison transport of prisoners versus guard and

03:45:34 12 who had on a mask, who didn't have on a mask, and

03:45:37 13 how long they were in close contact with each

03:45:39 14 other.

03:45:40 15 But I think if we're talking about it, we

03:45:42 16 really have to go into that next paragraph that

03:45:44 17 says that we can prevent it if you wear good

03:45:48 18 barriers, like a face mask.

03:45:50 19 Q. Right.

03:45:58 20 And the one from April, Exhibit 16,

03:46:05 21 that's also cited in your report?

03:46:08 22 A. Yes, that's correct.

03:46:08 23 Q. All right. And if we go back to your

03:46:22 24 report, which was Exhibit 6, and we go to I think

03:46:30 25 it's paragraph 18 --

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03:46:31 1 A. Okay.

03:46:45 2 Q. -- that's where you cite these two CDC

03:46:49 3 documents, correct?

03:46:50 4 A. That's correct.

03:46:51 5 Q. All right. If we look at paragraph 19 --

03:48:30 6 A. Yes.

03:48:31 7 Q. -- you talk there about people who are

03:48:36 8 infected with SARS-CoV-2 being asymptomatic,

03:48:42 9 presymptomatic, or have mild symptoms of

03:48:45 10 COVID-19. And what was your thinking in terms of

03:48:51 11 talking about that issue?

03:48:55 12 A. So one of the things that there's a bit

03:48:57 13 of -- it wasn't misinformation, it was what was

03:49:02 14 known at the time based on two studies that

03:49:04 15 weren't that well designed were pinning the rates

03:49:08 16 of asymptomatic at 80 percent. We really think

03:49:12 17 that that rate is closer to 15 percent and it's

03:49:15 18 not just asymptomatic alone.

03:49:17 19 It's asymptomatic plus presymptomatic

03:49:21 20 people or somebody who, like my husband when he

03:49:24 21 got COVID for the first couple days, I just -- I

03:49:28 22 think I'm getting a sinus infection and didn't do

03:49:30 23 anything about it to test for three days and then

03:49:32 24 he finally tested -- then he decides to test and,

03:49:35 25 of course, you know, it's two lines and he's

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03:49:37 1 really positive.

03:49:39 2 So my point of saying this is, look, we

03:49:43 3 know on the regular community, not in a nursing

03:49:46 4 home, that it's about 15 percent of the

03:49:48 5 population is either asymptomatic,

03:49:50 6 presymptomatic, or showing very mild symptoms.

03:49:54 7 Q. Okay.

03:49:54 8 A. And I think that's an important point

03:49:55 9 when were talking about surveillance.

03:49:59 10 Q. So during that period of time, and

03:50:01 11 apologies to your husband, that he thought he

03:50:06 12 might have had a sinus infection, if he had gone

03:50:09 13 out and gone to the store or gone to the gym or

03:50:14 14 been around other people, he could have infected

03:50:18 15 those people, correct?

03:50:22 16 A. So I made him e-mail his entire council

03:50:26 17 that he met with for his school during that time

03:50:29 18 and say, hey, I tested positive for COVID.

03:50:32 19 Nobody else got it. It was everybody's

03:50:34 20 vaccinated, so there were mitigation strategies.

03:50:37 21 They all work for a university. They all were

03:50:39 22 being very careful about what they did.

03:50:41 23 But I think in the early days we still

03:50:44 24 knew that you could have had these lower, smaller

03:50:47 25 symptoms, you could have had that, but we had

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03:50:51 1 effective strategies even dealing with it. Now

03:50:53 2 we're more relaxed than we were in 2020.

03:50:55 3 Q. Right.

03:50:55 4 But you were concerned enough about the

03:51:01 5 possibility that he could have spread it that you

03:51:03 6 did -- you made that contact.

03:51:07 7 A. Well, because it was three months ago, we

03:51:09 8 have no mask mandate, he stopped wearing a mask,

03:51:12 9 they're all meeting together and they're in an

03:51:13 10 enclosed space --

03:51:14 11 Q. Right.

03:51:15 12 A. -- and there's 15 of them sitting around

03:51:17 13 a table, so of course I made him do it.

03:51:19 14 Q. Yeah. And early -- if it had been early

03:51:24 15 March of 2020 and let's say he was in California

03:51:28 16 and he had gone to the same meeting with no mask

03:51:34 17 wearing, that also would have been a potential

03:51:37 18 exposure route, wouldn't it?

03:51:40 19 A. It could have been a potential exposure

03:51:43 20 route, but depending on what time in March, he

03:51:46 21 would have made the individual decision to wear a

03:51:51 22 mask or distance himself even from any of those

03:51:55 23 large groups. He shouldn't live with me because

03:51:58 24 I make him do all this stuff.

03:52:00 25 Q. Right.

40 (Pages 157 to 160)

Page 165			Page 166		
03:58:44	1	South Korea, which were different than they were	04:00:03	1	So we put this into that body of
03:58:46	2	here.	04:00:07	2	literature that said that we probably had a very
03:58:47	3	Q. Okay. But at the very least, as of that	04:00:11	3	high asymptomatic rate. We now know that wasn't
03:58:56	4	spring 2020, early summer 2020 time period, this	04:00:13	4	true, but we were really worried about it in May.
03:59:05	5	reflects thinking in the scientific community	04:00:23	5	Q. And that worry about it in May is
03:59:09	6	regarding the role of younger people in spreading	04:00:35	6	reflected in the PowerPoint that you presented in
03:59:12	7	the virus even though maybe that later on the	04:00:39	7	around that time period, correct?
03:59:17	8	information on that or data on that may have	04:00:41	8	A. I'll be honest, I was terrified. We had
03:59:20	9	changed; is that a fair statement?	04:00:44	9	a -- I had a workforce that I was worried about,
03:59:21	10	MS. MANZO: Objection to form.	04:00:46	10	and I had all these clients that were depending
03:59:23	11	A. I think it's really hard to take one	04:00:48	11	on me not to screw it up and bring COVID to their
03:59:25	12	article and say that that's kind of the body of	04:00:50	12	places. I probably slept less in the first parts
03:59:27	13	literature that's out there on it, and there had	04:00:55	13	of COVID than I did when I was working at CDC or
03:59:29	14	been a couple. But those studies were really	04:00:58	14	having small children.
03:59:34	15	done more in Asia than they are in the U.S., and	04:00:59	15	Q. And then going back to your report,
03:59:37	16	it's very hard, other than to understand kind of	04:01:05	16	Exhibit 6, in paragraph 20 you talk about the
03:59:40	17	disease morphology and those pieces to it, that	04:01:12	17	American society of heating, refrigeration, and
03:59:46	18	what you see in Asia is going to hold true in the	04:01:15	18	air conditioning, that's ASHRAE, correct?
03:59:49	19	U.S.		19	A. (Nodding head up and down.)
03:59:49	20	And there's a couple of reasons for that.	04:01:20	20	Q. And you talk about their guidelines to
03:59:51	21	One is they used a totally different test than we	04:01:27	21	reduce airborne infectious aerosol exposures.
03:59:53	22	used. They weren't using the same PCR testing	04:01:31	22	What was the purpose that you wanted -- well,
03:59:55	23	that we were. We don't know how good their	04:01:35	23	what was your purpose for citing to that in your
03:59:59	24	primer is. We don't know how effective their	04:01:37	24	report?
04:00:00	25	test was in picking up those cases.	04:01:39	25	A. Because we know that ASHRAE had really
Page 167			Page 168		
04:01:44	1	good data out there early on, on things that you	04:03:43	1	pandemic those materials were made available?
04:01:49	2	could do to potentially reduce the spread in your	04:03:46	2	A. March and April.
04:01:51	3	business or your operations by increasing your	04:03:47	3	Q. Okay.
04:01:56	4	air filtration systems and also by your air	04:03:47	4	A. They had put out a very large packet of
04:01:59	5	exchange rates.	04:03:50	5	information early on. And we were referring our
04:02:02	6	And they also had some decent guidance on	04:03:53	6	clients to it.
04:02:04	7	how to put up barriers and where you should put	04:03:54	7	Q. Okay. Great.
04:02:06	8	those barriers up so that you're not making	04:04:00	8	A. And it was a really nice packet, too. It
04:02:09	9	things worse.	04:04:02	9	had all the technical reasoning behind it.
	10	(Exhibit 18, ASHRAE Epidemic Task Force,	04:04:26	10	Q. In paragraph 21, which talks about
	11	Core Recommendations for Reducing Airborne	04:04:34	11	fomites, you have a sentence that says, "To date,
	12	Infectious Aerosol Exposure, marked for	04:04:38	12	there are no known confirmed cases of fomite
	13	identification.)	04:04:41	13	transmission of the SARS-CoV-2 virus."
04:02:23	14	Q. So Exhibit 18 is titled "ASHRAE Epidemic	04:04:48	14	How would a case of fomite transmission
04:03:04	15	Task Force, Core Recommendations for Reducing	04:04:50	15	of the virus be confirmed --
04:03:09	16	Airborne Infectious Aerosol Exposure."	04:04:53	16	MR. WEISS: Well, strike that.
04:03:12	17	And I guess my first question is, is	04:04:58	17	Q. How could you even tell whether somebody
04:03:15	18	this -- are these the guidelines that you're	04:05:00	18	got COVID from fomites versus some other way?
04:03:17	19	referring to in your report?	04:05:04	19	A. It tends to be a process of elimination.
04:03:20	20	A. These are part of them. And early in the	04:05:07	20	I mean, I use SARS covariant-1 as the example of
04:03:23	21	pandemic they had a very large packet you could	04:05:12	21	this. There is one study, it's either Singapore
04:03:26	22	download from their website that had more	04:05:17	22	or Hong Kong and I'm pretty sure it was Hong
04:03:31	23	guidance than this. This was sort of the take	04:05:18	23	Kong, that was done in an apartment complex, and
04:03:34	24	away guidance from it. But...	04:05:23	24	the only thing that we could identify that these
04:03:36	25	Q. Okay. Do you recall at what point in the	04:05:27	25	two individuals had in common was the elevator

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04:17:02	1	Q. No, you should. They're interesting.	04:18:44	1	the lack of testing was a factor? I think it's
04:17:05	2	If we could go back to your report in	04:18:46	2	in footnote 70 of your --
04:17:10	3	paragraph 36.	04:18:48	3	A. Yes.
04:17:13	4	A. Okay.	04:18:49	4	Q. Okay. At the bottom of the first column
04:17:14	5	Q. And let me go to where I wanted to go to.	04:18:55	5	of page 1 of the exhibit it says, "Factors that
04:17:25	6	You wrote, "Dr. Carnethon argues that testing	04:19:00	6	contributed to the acceleration of dissemination
04:17:29	7	underrepresented the number of true cases of	04:19:04	7	in March included," and number 4 is, "Challenges
04:17:32	8	COVID-19 in the population in March and April of	04:19:10	8	in virus detection, including limited testing,
04:17:36	9	2020 and asserts that cases were widespread and	04:19:14	9	emergence during the peak months of influenza
04:17:38	10	could not be counted due to the lack of readily	04:19:17	10	circulation and influenza and pneumonia
04:17:41	11	available tests. CDC in May of 2020 conducted an	04:19:19	11	hospitalizations and other cryptic transmission,
04:17:47	12	analysis of why the spread occurred quickly in	04:19:23	12	including from persons who are asymptomatic or
04:17:49	13	March and April of 2020 and did not determine	04:19:26	13	presymptomatic."
04:17:52	14	that the lack of testing was a factor in how	04:19:29	14	A. Yes.
04:17:56	15	cases were counted and spread."	04:19:29	15	Q. So doesn't that say that the CDC was
04:17:59	16	Did I read that correctly?	04:19:34	16	including challenges in testing and limited
04:18:01	17	A. You did.	04:19:38	17	testing as a factor in the spread of the virus?
04:18:01	18	Q. All right. So let's look at 31.	04:19:41	18	A. So one of the things they're really
	19	(Exhibit 19, "Public Health Response to	04:19:42	19	focusing on, and if you go back and read through
	20	the Initiation and Spread of Pandemic COVID-19	04:19:45	20	this, is really this issue of cryptic cases. So
	21	in the United States, February 24 - April 21,	04:19:49	21	there were -- and I've not said there's not been
	22	2020, marked for identification.)	04:19:53	22	isolated cases of limited testing. There are.
04:18:17	23	Q. Is this the article that you cited in	04:19:58	23	But we can't take that and apply it globally to
04:18:34	24	your report for the proposition that the CDC	04:20:00	24	the entire population that was here.
04:18:39	25	conducted an analysis and did not determine that	04:20:03	25	And, you know, I think if you go in and
Page 179			Page 180		
04:20:09	1	read the little discussion and all the rest of	04:21:24	1	because what we're doing is just saying, oh, it's
04:20:12	2	the pieces of this, I'm still saying the same	04:21:26	2	only influenza and sending you home when you
04:20:16	3	thing they are saying here with the cryptic	04:21:28	3	could have had both influenza and COVID.
04:20:19	4	testing, so...	04:21:35	4	The other big issue that we were having
04:20:20	5	And I even go on to say, you know, "while	04:21:39	5	at that time, you have to remember, is RSV, and
04:20:27	6	testing in some locations may have been an issue,	04:21:46	6	RSV was running rampant as far as 2020 and it
04:20:30	7	many state and local health departments recognize	04:21:51	7	still is such a big deal today.
04:20:32	8	the same issues documented by CDC in their	04:21:54	8	Q. Looking back at Exhibit 19 in the first
04:20:34	9	retrospective article and took steps to reduce	04:21:58	9	paragraph, at the end it says -- or towards the
04:20:37	10	spread through stay-at-home orders and	04:22:05	10	end it says, "By mid March transmission of
04:20:40	11	surveillance with robust contact tracing to	04:22:09	11	SARS-CoV-2, the virus that causes COVID-19, had
04:20:42	12	reduce spread to compensate for the lack of	04:22:12	12	accelerated with rapidly increasing case counts
04:20:44	13	readily available tests."	04:22:16	13	indicating established transmission in the United
04:20:48	14	Q. What is cryptic transmission?	04:22:18	14	States. Ongoing traveler importation of
04:20:51	15	A. Unrecognized transmission. We don't know	04:22:23	15	SARS-CoV-2 attendance at professional and social
04:20:53	16	how it's happening. And where -- where we have	04:22:27	16	events, introduction into facilities or settings
04:20:57	17	these little clusters of cases and we don't quite	04:22:31	17	prone to amplification, and challenges in virus
04:21:00	18	understand it.	04:22:34	18	detection all contributed to rapid acceleration
04:21:02	19	Q. So they may not be tied to somebody who	04:22:37	19	of transmission during March."
04:21:03	20	traveled to China, for example, or...	04:22:39	20	Do you see that?
04:21:07	21	A. Not necessarily. Or here's a good	04:22:41	21	A. I do.
04:21:09	22	example. You come in, you're doctor tests you	04:22:41	22	Q. And you don't disagree with that
04:21:12	23	only for influenza. That we know now and after	04:22:44	23	statement, do you?
04:21:17	24	the 2021 flu season, we now know to test	04:22:45	24	A. No. And I haven't disagreed with it in
04:21:21	25	everybody who comes in for both flu and COVID	04:22:46	25	the report.

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04:22:47 1 Q. All right.

04:23:22 2 MR. WEISS: I think I'm done with my

04:23:24 3 questions. So thank you so much for your time.

04:23:27 4 Hopefully I didn't mess you up by not taking a

04:23:30 5 flight tomorrow, but...

04:23:32 6 THE WITNESS: You have not, and thank you

04:23:33 7 for being kind because the last depo I had last

04:23:37 8 week, I really had somebody screaming in my face.

04:23:40 9 So thank you.

04:23:41 10 MR. WEISS: Oh, I hope that's on the

04:23:43 11 record.

04:23:45 12 Deanna, do you have follow-up or anybody

04:23:46 13 else?

04:23:48 14 MS. MANZO: I do not have any follow-up.

04:23:50 15 MR. WEISS: Anybody on Zoom? No.

04:23:54 16 Hearing no objections, I think we're -- we can

04:23:57 17 conclude.

04:23:59 18 THE VIDEOGRAPHER: Okay. The time is now

04:24:02 19 3:56. We are off the record.

20 (Whereupon, this deposition concluded at

21 3:56 p.m.)

22

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24

25

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1 CERTIFICATE

2 Commonwealth of Massachusetts

3 Suffolk, ss.

4 I, Dana Welch, Registered Professional

5 Reporter, Certified Realtime Reporter, do hereby

6 certify that ALLISON STOCK, Ph.D., the witness

7 whose deposition is hereinbefore set forth, was

8 duly sworn by me before the commencement of

9 such deposition, and that such deposition was taken

10 before me and is a true record of the testimony

11 given by such witness.

12 I further certify that the adverse party was

13 represented by counsel at the deposition. I

14 further certify that I have no disqualifying

15 interests, personal or financial, in any party in

16 this action.

17 I further certify that the deposition of

18 ALLISON STOCK, Ph.D., occurred IN PERSON on AUGUST

19 22, 2023 in BOSTON, MASSACHUSETTS, commencing at

20 10:04 a.m. and concluding at 3:56 p.m.

21

22

23 _____

24 Dana Welch, CSR, RPR, CRR

25 Notary Public

My Commission Expires:

September 13, 2024

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1 DEPOSITION ERRATA SHEET

2 Assignment No. J10132723

3 Case Caption: 24 Hour Fitness v. Continental

4 Casualty, et al.

5

6 DECLARATION UNDER PENALTY OF PERJURY

7 I, ALLISON STOCK, Ph.D., declare under

8 penalty of perjury that I have read the entire

9 transcript of my deposition taken in the

10 captioned matter or the same has been read to me,

11 and the same is true and accurate, save and except

12 for changes and/or corrections, if any, as

13 indicated by me on the DEPOSITION ERRATA SHEET

14 hereof, with the understanding that I offer these

15 changes as if still under oath.

16 Signed on the ____ day of

17 _____, 2023.

18

19 _____

20 ALLISON STOCK, Ph.D.

21

22

23

24

25

Page 184

1 ERRATA SHEET

2 Page ____ Line ____ Change to ____

3 _____

4 Reason for change: _____

5 Page ____ Line ____ Change to ____

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8 Page ____ Line ____ Change to ____

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24 SIGNATURE: _____ DATE: _____

25

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